



16/10/07

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HIGH COURT OF CHHATTISGARH, BILASPUR

W. P (S) No.5739/2007

PETITIONER

Kuldip Kujur, aged about 43years, S/o
Shri P. Kujur, Assistant Teacher, Govt.
Primary School, Karmitikra, Block
Premnagar, District Sarguja (C.G.)

RESPONDENTS

Versus

1. State of Chhattisgarh,
Through the Secretary Tribal Welfare
Department, -Dau Kaiyan Singh
Bhawan, Raipur (C.G.)
2. Collector,
Sarguja (C.G.)
3. Assistant Commissioner,
Tribal Welfare Department, Ambikapur,
District Sarguja (C.G.)
4. Block Education Officer,
Prem Nagar, District Sarguja (C.G.)

WRIT PETITION UNDER ARTICLE 226 AND 227 OF THE
CONSTITUTION OF INDIA

Appearance:

Shri D.N. Prajapati, Counsel for the petitioner.
Ms. Sunita, Jain, Panel Lawyer for the State.

ORAL ORDER
(15.10.2007)

SUNIL KUMAR SINHA, J.

Heard.

The petitioner, who is working on the post of Assistant Teacher in Primary School, Karmitikra, has been transferred on the option of Assistant Commissioner, Koriya.

Learned counsel for the petitioner submits that in fact the petitioner is working at Karmitikra, but in the order it has been mentioned that he is working at Dhumadand.

He shows me the order dated 30.09.2003, according to which, in fact, the petitioner is substantially working at Karmitikra and was attached to Dhumadand. It is for this reason, the substantive place of



posting of the petitioner has been shown as Dhumadand and that is not a material irregularity.

Learned counsel for the petitioner raises the second point that the wife of the petitioner is working as a Supervisor in *Bal Vikas Pariyojna*, Premnagar, which is nearer to Dhumadand and it shall be far away from Koriya, therefore, if the order is affected, it shall create difficulty in the family. Apart from this, he submits that there is a minor son of the petitioner and it would be difficult to look after him also, if the husband and wife are kept at 2 different places.

Needless to say that these are not the grounds to interfere with an order of transfer.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also in the public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafides or extraneous consideration or is against any statutory Rules or Act, it cannot be interfered by a Court of Law.

So far as personal difficulties of the petitioner are concerned, the petitioner is free to file a representation before the concerned authority and the concerned authority is under obligation to dispose of the representation, because, as stated by learned counsel for the petitioner, there are many circulars of the government, according to which, the policy is that ^{so} far as possible husband and wife should be kept at one place for rendering smooth services by them.

In light of the above, I am not inclined to interfere with the order on these grounds.

The petition is disposed of.

However, the petitioner shall be free to file a representation before the concerned authority in this regard and if such a representation is filed, it shall be disposed of by the concerned authority in accordance with law at the earliest.

Sd/-
Sunil Kumar Sinha
Judge